

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BANK OF AMERICA, N.A.,
 Plaintiff(s),

vs.

SKYRIDGE HOMEOWNERS
 ASSOCIATION, et al.,

Defendant(s).

Case No. 2:16-cv-00436-RFB-NJK

ORDER

(Docket No. 22)

Pending before the Court is Plaintiff's motion for an extension of time to serve Defendant Liquor Holdings Limited ("Defendant"), and for leave to serve it by publication or through the Secretary of State. Docket No. 22. The Court finds the motion properly resolved without a hearing. *See* Local Rule 78-1. For the reasons discussed below, the motion is **GRANTED** in part and **DENIED** in part.

I. Motion to Extend Time for Service

Where good cause is shown, the time for serving the complaint is extended for an appropriate period. *See* Fed. R. Civ. P. 4(m). The motion establishes sufficient cause to extend the time for effectuating service on Defendant for 60 days.

II. Motion for Leave to Serve by Publication

Plaintiff seeks leave to serve Defendant by publication. Service by publication implicates a defendant's fundamental due process rights. *See, e.g., Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314-15 (1950); *Price v. Dunn*, 787 P.2d 785, 787 (Nev. 1990). As a result, service by

1 publication is generally disfavored. *See, e.g., Trustees of the Nev. Resort Assoc.–Int’l Alliance of*
2 *Theatrical Stage Employees & Moving Picture Machine Operators v. Alumifax, Inc.*, 2013 U.S. Dist.
3 Lexis. 106456, *2 (D. Nev. July 29, 2013).

4 The Federal Rules of Civil Procedure provide for service pursuant to the law of the state in which
5 the district court is located, or in which service is made. *See, e.g., Fed. R. Civ. P. 4(e)(1)*. Pursuant to
6 Rule 4 of the Nevada Rules of Civil Procedure, parties are generally required to personally serve
7 summons and the complaint upon defendants. Nevada law also permits a party to obtain leave for
8 service by publication when the opposing party, *inter alia* “cannot, after due diligence be found within
9 the state, or by concealment seeks to avoid the service of summons.” Nev. R. Civ. P. 4(e)(1). There are
10 several factors courts consider to evaluate a party’s due diligence, including the number of attempts
11 made to serve the defendant at his residence and other methods of locating defendants, such as
12 consulting public directories and family members. *See Price*, 787 P.2d at 786-87; *Abreu v. Gilmer*, 985
13 P.2d 746, 747 (Nev. 1999); *McNair v. Rivera*, 874 P.2d 1240, 1241 (Nev. 1994).

14 Here, Plaintiff’s efforts to effectuate service consist of (1) attempting to personally serve the
15 Defendant’s president (Zhiqun Huang) at two locations identified on the Secretary of State website and
16 (2) attempting to serve Defendant through its previous attorney. *See, e.g., Docket No. 22-2*. Such
17 efforts are not sufficient for the Court to permit Plaintiff to bypass the traditional service requirements.
18 For example, Plaintiff fails to explain whether it has conducted any searches regarding the location for
19 Mr. Huang apart from reviewing the Secretary of State website. Nor has Plaintiff explained whether it
20 has searched for the current location of Defendant’s other officers, Zhihong Mo and Geng Zhang. *Cf.*
21 Nev. R. Civ. P. 4(d)(1) (Nevada corporate entities may generally be served through any of their
22 officers).¹ Given that it appears several avenues to effectuate service remain unexplored, the Court finds
23 the request to serve Defendant by publication to be premature.

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27 ¹ The Court takes judicial notice of the information contained on the Secretary of State website. *See,*
28 *e.g., Hackett v. OneWest Bank FSB*, 2012 WL 6016740, *3 n.3 (D. Nev. Dec. 3, 2012) (taking judicial notice
of information on Nevada Secretary of State business entity search website).

1 **III. Motion for Leave to Serve Through the Secretary of State**

2 Plaintiff also requests leave to serve Defendant through the Secretary of State. Plaintiff's single
3 paragraph devoted to seeking this relief does not meaningfully develop the issue. *See* Docket No. 22
4 at 5. Therefore, it will be denied. *See, e.g., Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 582 n.3
5 (D. Nev. 2013).²

6 **IV. Conclusion**

7 For the reasons discussed above, the pending motion is **GRANTED** in part and **DENIED** in part.
8 More particularly, the deadline to effectuate service on Defendant is extended by 60 days. The requests
9 to serve Defendant by publication or through the Secretary of State are denied without prejudice.

10 IT IS SO ORDERED.

11 DATED: June 14, 2016

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15 NANCY J. KOPPE
16 United States Magistrate Judge

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27 ² Moreover, service through the Secretary of State is permitted when service on a corporate entity
28 cannot be completed. *See* Nev. R. Civ. P. 4(d)(1). The pending motion has not made a sufficient showing
on that front for the reasons discussed above.